

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

GREGORY PEEPLES,)	No. ED96864
)	
Appellant,)	Appeal from the Circuit Court
)	of the City of St. Louis
vs.)	
)	Honorable John J. Riley
STATE OF MISSOURI,)	
)	
Respondent.)	FILED: February 14, 2012

Gregory Peeples, Sr. (Peeples) appeals from the motion court's denial without an evidentiary hearing of his motion for post-conviction relief. In his motion, Peeples argued that his trial counsel was ineffective in failing to request that the trial court invoke the witness exclusionary rule, and in preventing Peeples from offering specific testimony. The motion court held that Peeples was not prejudiced by his trial counsel's failure to invoke the witness exclusionary rule, and that his trial counsel's decision to advise Peeples to refrain from offering specific testimony during his direct examination was a valid exercise of trial strategy.

DISMISSED AND REMANDED WITH INSTRUCTIONS

Division 4 holds: 1) Peeples has failed to carry the burden of proving that his motion for post-conviction relief was timely filed as to his convictions that we affirmed on direct appeal. We dismiss Peeples's appeal with instructions to the motion court to vacate its judgment, and dismiss Peeples's Rule 29.15 motion as to those convictions. 2) The record on appeal does not contain sufficient evidence for us to determine whether Peeples's convictions of first-degree statutory rape and first-degree child molestation, which we remanded on direct appeal, were within the scope of Peeples's original motion. We therefore remand Peeples's motion as to those convictions to the motion court for such a finding.

Opinion by: Kurt S. Odenwald, C.J., Patricia L. Cohen, J., and Robert M. Clayton III, J., Concur.

Attorney for Appellant: Brocca Smith

Attorney for Respondent: Chris Koster and Richard A. Starnes

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.
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